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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,191	08/08/2003	Jurgen Muller	P2001,0082	3966
24131	7590	04/06/2006	EXAMINER	
LERNER GREENBERG STEMER LLP			NGUYEN, PHILLIP	
P O BOX 2480			ART UNIT	PAPER NUMBER
HOLLYWOOD, FL 33022-2480			2828	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/637,191	Applicant(s) MULLER, JURGEN	
	Examiner Phillip Nguyen	Art Unit 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 1,4,8,10 and 12 is/are rejected.
- 7) ☒ Claim(s) 2,3,5-7,11 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413).
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-8 and 10-13 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 10 is objected to because of the following informalities: The claim depends on claim 9, which has been cancelled. It is believed that claim 10 should be dependent on claim 1 because claim 9 has been combined with claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claims 1, 4, 8, 10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Cox et al. ('072).

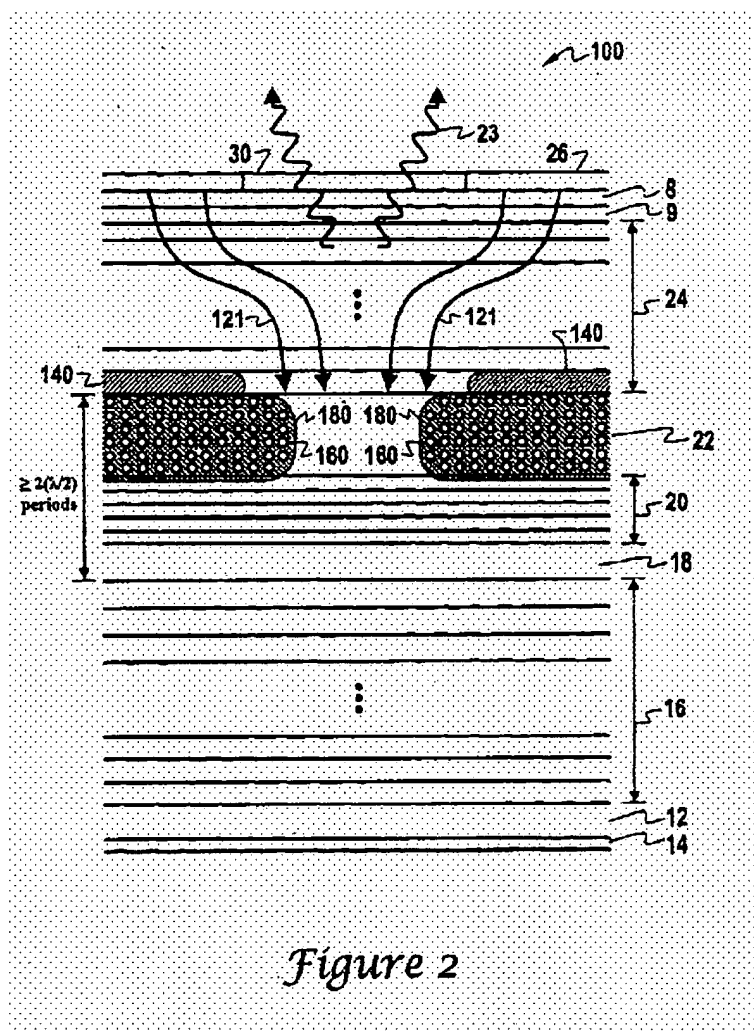


Figure 2

With respect to claim 1, Cox discloses in Fig. 2 above a semiconductor laser comprising:
a vertical resonator formed by reflectors 16 and 24; a photon-emitting active layer disposed
between said at least one current diaphragm 140 for laterally circumscribing a current flowing

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through said photon-emitting active layer and mode-selective regions 160 and 180 extending in a vertical direction within said vertical resonator and laterally delimiting said vertical resonator, said mode-selective regions-being implantation regions extending into said photon-emitting active layer.

With respect to claim 4, Cox discloses the current diaphragm being formed from an oxide (col. 4, line 59).

With respect to claim 8, it is inherent that the implantation regions having an electrical conductivity less than an electrical conductivity of said vertical resonator along the resonator.

With respect to claim 10, it is also inherent that the vertical cavity having an edge area (outside edge) and mode selective region 22 (more specific, 160 and 180) that extends in said edge area and a surrounding region of said edge area of said vertical resonator which is any region that is different from edge area.

With respect to claim 12, see the Fig. 2 for multilayer structure and the mode-selective regions 22 being disposed within that multilayer structure.

Allowable Subject Matter

4. Claims 2-3, 6-7, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 13 is allowed.

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Communication Information

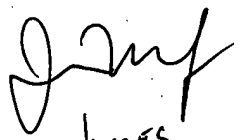
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Nguyen whose telephone number is 571-272-1947. The examiner can normally be reached on 9:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MINSUN HARVEY, can be reached on 571-272-1835. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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James
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